IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1877 OF 2004

Shri Sunil Rajaram Hamand. ..Petitioner

Vs.

Mr.Suresh Dinanath Hamand & Ors. ..Respondents

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Shri C.R.Mestry for the petitioner.

CORAM : R.M.S.KHANDEPARKAR, J

DATED : 11th OCTOBER, 2004.

P.C.

1. Heard. The petitioner challenges the impugned order dated 31st March, 2003 passed by the trial Court allowing the application filed by the respondents for expeditious hearing and disposal of the notice of motion taken out by the respondent under Order 21 Rule 22 of the Code of Civil Procedure prior to hearing and disposal of the notice of motion taken out by the petitioner for proceeding against the respondents under Sections 191 to 193 of IPC being the perjury proceedings against the respondents on account of the alleged false statement made by them in relation to the status of the petitioner. It cannot be disputed

that whether perjury proceedings are to be initiated against the party to the suit or not is entirely in the discretion of the concerned court to decide, and in the case in hand, the trial court is yet to apply its mind to the said aspect. Merely because the petitioner has stated that the respondents have made a false statement, that by itself would not amount to say that the respondents are liable to be prosecuted and/or punished in the matter. Whether the statement made by the respondents is false statement or not is yet to be decided by the court below. However, any proceeding in that regard need not detain the Court below from proceeding with the other miscellaneous matters in the suit. It is entirely in the discretion of the Court below to decide as to whether it should give priority to the perjury proceedings or other miscellaneous matters. The Court below, in its discretion, which has been judiciously exercised, has decided to take up the miscelleneous matters prior to the pergury proceedings. The decision neither discloses improper exercise of its jurisdiction nor any illegality. Being so, there is no case for interference in the impugned order in writ jurisdiction. Hence, the petition is rejected with no order as to costs.